

CITY COUNCIL OF THE CITY OF SEAT PLEASANT, MARYLAND

Ordinance No.: O-14-04
Introduced by: City Council
Date Introduced: September 4, 2013
First Reading: September 4, 2013
Second Reading: October 7, 2013
Date Adopted: October 13, 2013
Date Effective: November 3, 2013

AN ORDINANCE concerning

CHAPTER 67 – Property Maintenance

FOR the purpose of adopting the Minimum Livability Code adopted by the Maryland Department of Housing and Community Development and the 2012 International Property Maintenance Code published by the International Code Council as the property maintenance code for the City of Seat Pleasant, subject to certain modifications to address conditions peculiar to the City of Seat Pleasant; establishing the minimum regulations governing the conditions and maintenance of all property, buildings and structures within the municipal boundaries of the City of Seat Pleasant; providing standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; providing for the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures; providing penalties for violations and for enforcement of the property maintenance code; providing for appeals and judicial review of certain orders or decisions relating to the property maintenance code; providing for the application of such regulations, standards and penalties; providing that the title of this Ordinance shall be deemed a fair summary; and generally relating to the adoption of a property maintenance code for the City of Seat Pleasant.

BY amending Chapter 67, Property Maintenance
Sections 67-1 and 67-2
Code of the City of Seat Pleasant (1994 Edition, as amended by Ordinance O-10-07)

WHEREAS, pursuant to § 12-203(b) of the Public Safety Article of the Maryland Annotated Code, each political subdivision shall adopt a local housing code that sets minimum property maintenance standards for housing in the subdivision; and

WHEREAS, pursuant to § 12-203(c) of the Public Safety Article of the Maryland Annotated Code, the Maryland General Assembly directed the Maryland Department of Housing and Community Development (“DHCD”) to adopt by regulation a Minimum Livability Code applying to residential structures used for human habitation; provided, however, that the Minimum Livability Code does not apply to any housing in a political subdivision that has adopted a local housing code that substantially conforms to the Minimum Livability Code; and

WHEREAS, pursuant to its statutory mandate, DHCD adopted a Minimum Livability Code, set forth in Title 5, Subtitle 2, Chapter 3 of the Code of Maryland Regulations (the “Minimum Livability Code”), which incorporates by reference the International Code Council’s 2012 edition of the International Property Maintenance Code (the “2012 International Property Maintenance Code”); and

WHEREAS, pursuant to Article 23A, § 2 of the Maryland Annotated Code and Section C-501(a) of the Charter for Seat Pleasant (the “Charter”), the City Council is empowered and authorized to adopt and amend, by ordinance, as it may deem necessary, a property maintenance code for the City of Seat Pleasant for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the residents of the City and visitors thereto and sojourners therein; and

WHEREAS, the City Council desires to update and amend its existing property maintenance code, as set forth in Chapter 67 of the Code of the City of Seat Pleasant, and as amended by Ordinance No. O-10-07, from the 2009 edition of the International Property Maintenance Code to the Minimum Livability Code and the 2012 International Property Maintenance Code as the property maintenance code for the City of Seat Pleasant, subject to certain modifications to address conditions peculiar to the City of Seat Pleasant; establish the minimum regulations governing the conditions and maintenance of all property, buildings and structures in the City of Seat Pleasant; provide standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; provide for the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures; provide penalties for violations and for enforcement of the property maintenance code; provide for appeals and judicial review of certain orders or decisions relating to the property maintenance code; and provide for the application of such regulations, standards and penalties; and

WHEREAS, the City Council deems it in the interest of the public health, welfare and safety of the citizens of the City of Seat Pleasant, and for the good government of the City of Seat Pleasant, to enact this Ordinance and to take the actions as described herein.

SECTION 1. BE IT ORDAINED BY THE SEAT PLEASANT CITY COUNCIL that Sections 67-1 and 67-2, of the Code of the City of Seat Pleasant (1994 Edition, as amended) be and they hereby are amended to read as follows:

67-1. Adoption of standards; copies on file.

((Subject to the modifications contained in §67-2, there)) THERE is hereby adopted by the City of Seat Pleasant for the purpose of establishing minimum regulations governing the conditions and maintenance of buildings, structures and property in the city, and the condemnation and demolition of buildings and structures unfit for human occupancy or use, ((a)) certain ((document)) DOCUMENTS entitled the MINIMUM LIVABILITY CODE, ADOPTED BY THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND SET FORTH IN TITLE 5, SUBTITLE 2, CHAPTER 3 OF THE CODE OF MARYLAND REGULATIONS AND THE International Property Maintenance Code ((2009)), as published by the International Code Council AS THE PROPERTY MAINTENANCE CODE FOR THE CITY, SUBJECT TO CERTAIN MODIFICATIONS AND THE PROVISIONS OF THIS CHAPTER TO ADDRESS CONDITIONS PECULIAR TO THE CITY. Not less than three (3) copies of the MINIMUM LIVABILITY CODE AND THE 2012 EDITION OF THE International Property Maintenance Code ((2009)) shall be kept on file in the office of the City Clerk. IN ANY SITUATION WHERE A PROVISION OF THE MINIMUM LIVABILITY CODE, THE 2012 INTERNATIONAL PROPERTY MAINTENANCE CODE AND/OR THIS CHAPTER CONFLICT, THE PROVISION WHICH ESTABLISHES THE HIGHER STANDARD FOR THE PROMOTION AND PROTECTION OF THE PUBLIC HEALTH, SAFETY AND WELFARE SHALL PREVAIL, REGARDLESS OF WHICH MAY HAVE BEEN ENACTED FIRST.

67-2. Modifications.

The 2012 EDITION OF THE International Property Maintenance Code ((2009)), as adopted by §67-1, is modified as set forth below:

A. ((In the second line of Section 101.1 on page 1, in the space labeled “[NAME OF JURISDICTION]” insert “City of Seat Pleasant”).) SECTION 101.1 ON PAGE 1 IS DELETED AND NEW SECTION 101.1 IS SUBSTITUTED, TO READ AS FOLLOWS:

101.1 TITLE. THESE REGULATIONS SHALL BE KNOWN, AND MAY BE CITED, AS THE INTERNATIONAL PROPERTY MAINTENANCE CODE. AS USED HEREINAFTER, “THE CODE” SHALL MEAN AND REFER TO THESE REGULATIONS.

B. Section 102.3 on page 1 is ((revised)) DELETED AND NEW SECTION 102.3 IS SUBSTITUTED, to read as follows:

102.3 Application of other codes. Any repairs, additions or alternations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of all other codes applicable within the City of Seat Pleasant.

C. Section 102.7 on page 1 is ((revised)) DELETED AND NEW SECTION 102.7 IS SUBSTITUTED, to read as follows:

102.7 Referenced codes and standards. The standards referenced in this code and listed in Chapter 8, except the International Zoning Code, shall be considered part of the requirements of this code to the prescribed extent of each such reference, except to the extent that any of such standards have been expressly modified in the Code of the City of Seat Pleasant. Where differences occur between the provisions of this code and the referenced standards, the provisions of this code shall apply.

EXCEPTION: WHERE ENFORCEMENT OF A CODE PROVISION WOULD VIOLATE THE CONDITIONS OF THE LISTING OF THE EQUIPMENT OR APPLIANCE, THE CONDITIONS OF THE LISTING SHALL APPLY.

D. New Section ((102.9)) 102.11 is added to Section 102 on page ((1)) 2, IMMEDIATELY FOLLOWING SECTION 102.10, to read as follows:

((102.9)) 102.11 Conflicting provisions. In any situation where a provision of this code conflicts with the provision of any other law, ordinance, code or regulation, the provision which establishes the higher standard for the promotion and protection of the public health, safety and welfare shall prevail, regardless which may have been enacted first.

E. ((Delete in its entirety Section 103, Department of Property Maintenance Inspection, on pages 2, and substitute the following)) SECTION 103 – DEPARTMENT OF PROPERTY MAINTENANCE AND INSPECTION IS DELETED AND NEW SECTION 103 – CODE OFFICIAL IS SUBSTITUTED, TO READ AS FOLLOWS:

Section 103 Code Official.

103.1 General. ((This code shall be administered and enforced by the code official. The code official shall be such person or persons as the City Council designates from time to time.)) THE OFFICIAL DESIGNATED BY THE CITY COUNCIL TO ADMINISTER AND ENFORCE THIS CODE SHALL BE KNOWN AS THE CODE OFFICIAL. THE CODE OFFICIAL SHALL SERVE AT THE PLEASURE OF THE CITY COUNCIL. THE CITY COUNCIL MAY CONTRACT WITH AN INDEPENDENT AGENCY OR ORGANIZATION FOR CODE INSPECTION AND ENFORCEMENT SERVICES.

103.2 FEES. THE CITY COUNCIL MAY, BY RESOLUTION, ESTABLISH FEES FOR ACTIVITIES AND SERVICES PERFORMED BY THE CODE OFFICIAL IN CARRYING OUT THE CODE OFFICIAL'S RESPONSIBILITIES UNDER THIS CODE.

F. Sections 106.3, 106.4 and 106.5 on page 3 are deleted and new Sections 106.3 and 106.4 are substituted, to read as follows:

106.3 Violations and Penalties.

1. Knowing and intentional violations of this code, failures to comply with this code, or refusals or failures to comply with a notice issued pursuant to Section 107 of this code, are declared to be misdemeanors. Any person who knowingly and willfully commits any

of these acts shall, upon conviction, be guilty of a misdemeanor and subject to a fine of up to \$1,000, imprisonment for up to 6 months, or both fine and imprisonment. Each day that one of these acts continues is a separate offense.

2. Except as provided in paragraph 1 above, violations of this code, failures to comply with this code, or refusals or failures to comply with a notice issued pursuant to Section 107 of this code, are declared to be municipal infractions, and shall be subject to a fine ((Of up to \$400 per offense)) ACCORDING TO THE APPROVED FEE SCHEDULE. These acts are strict liability offenses. Each day that one of these acts continues is a separate offense.

((G. Section 106.4 on page 3 is revised to read as follows:))

106.4 Prosecution. In addition to the penalties provided for in Section 106.3, in case of any ((unlawful acts)) VIOLATION OF THIS CODE, the code official, with the approval of the chief executive officer of the ((Town)) CITY, may institute in the name of the ((Town)) CITY an appropriate civil action or proceeding against the person responsible for the violation for the purpose of ordering that person:

1. To restrain, correct or remove the violation or refrain from further execution of work;
2. To restrain or correct the erection, installation, maintenance, repair or alternation of such BUILDING, structure OR PREMISES;
3. To require the removal of work in violation; or
4. To prevent the occupancy of the BUILDING, structure OR PREMISES that is not in compliance with the provisions of this code.

((H)) G. ((The second sentence of)) Section 108.2 on page ((4)) 5 is ((revised)) DELETED AND NEW SECTION 108.2 IS SUBSTITUTED, to read as follows:

IF THE STRUCTURE IS VACANT AND UNFIT FOR HUMAN HABITATION AND OCCUPANCY, AND IS NOT IN DANGER OF STRUCTURAL COLLAPSE, THE CODE OFFICIAL IS AUTHORIZED TO POST A PLACARD OF CONDEMNATION ON THE PREMISES AND ORDER THE STRUCTURE CLOSED UP SO AS NOT TO BE AN ATTRACTIVE NUISANCE. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement with private persons, and the cost thereof shall be the responsibility of the owner of the structure, shall be a lien on the real estate upon which the structure is located, and may be collected and have the lien enforced in the same manner, and have the same rights, priority rights, interest and penalties as ((Town)) CITY real property taxes.

((I)) H. Section 109.5 on page ((4)) 6 is ((revised)) DELETED AND NEW SECTION 109.5 IS SUBSTITUTED, to read as follows:

109.5 Costs of emergency repairs. Subject to the availability of funds in the City's annual budget, costs incurred in the performance of emergency work shall be paid from the treasury of the City on approval of the code official and the chief executive officer of the City. Upon request of the code official, with the concurrence of the chief executive officer of the City, the City Attorney shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

((J)) I. Section 110.3 on page ((5)) 6 is ((revised)) DELETED AND NEW SECTION 110.3 IS SUBSTITUTED, to read as follows:

110.3 Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be razed and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be the responsibility of the owner of the structure, shall be a lien on the real estate upon which the structure is located, and may be collected and have the lien enforced in the same manner, and have the same rights, priority rights, interest and penalties as City real property taxes.

((K)) J. Section 111.1 through 111.8, inclusive, on page ((5)) 6 and 7 are deleted, and new Sections 111.1 through 111.5 are substituted, to read as follows:

111.1 Application for Appeal. Any person aggrieved by a decision of the code official may file a written notice of appeal with the City's Chief Executive Officer within ((fifteen (15))) 15 days following the day the decision, notice or order was served. A notice of appeal shall be accompanied by such fee as the City Council may prescribe BY RESOLUTION. A notice of appeal shall be based upon a claim that the true intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code have been incorrectly applied, the provisions of this code do not fully apply, the requirements of this code can be adequately satisfied by other means, or that the strict application of any requirement of this code would cause an undue hardship.

111.2 Hearing on Appeal. Any appeal properly and timely filed shall be heard by a hearing officer designated for that purpose by the Chief Executive Officer. The hearing officer shall be an attorney at law licensed to practice in Maryland. The hearing shall take place as soon as practicable, but in any event within 30 days, after the notice of appeal has been received by the Chief Executive Officer. Notice of the hearing shall be provided promptly to the person who filed the notice of appeal and the code official. The hearing shall be open to the public. The hearing officer shall determine the order of presentation of evidence and argument. At the hearing the hearing officer shall not apply strict rules of evidence but shall accept all evidence relevant to the issues on appeal and shall give such

weight to the evidence as the hearing officer deems appropriate. The proceedings of the hearing shall be stenographically recorded.

111.3 Decision on Appeal. Promptly after the conclusion of the hearing the hearing officer shall decide the appeal by rendering written findings of fact and conclusions of law and send a copy to the Chief Executive Officer, the code official, the person who filed the notice of appeal and any other parties to the proceeding.

111.4 Judicial Review. Any person aggrieved by a decision of the hearing officer may file a request for judicial review to the Circuit Court for Prince George's County WITHIN 30 DAYS OF THE DATE OF THE HEARING OFFICER'S DECISION. Promptly after filing the request for judicial review, the person who files the request for judicial review shall obtain a transcript of the proceedings before the hearing officer at his or her expense and shall provide a copy to the Chief Executive Officer without charge.

111.5 Stay of Enforcement. Any notice or order of the code official (other than an Imminent Danger notice) is automatically stayed for a period of 15 days after service of the order or notice. If a notice of appeal is timely filed with the Chief Executive Officer, the notice or order is further stayed until the hearing officer has rendered a decision on the appeal. The notice or order, and decision of the hearing officer, is not stayed during any period of judicial review unless otherwise ordered by the court.

((L)) K. The definition of "((Code)) CODE official" as contained in Section 202 on page ((7)) 9 is ((revised)) DELETED AND A NEW DEFINITION OF "CODE OFFICIAL" IS SUBSTITUTED, to read as follows:

CODE OFFICIAL. ((Such person or persons as the city council may designate from time to time.)) THE OFFICIAL DESIGNATED BY THE CITY COUNCIL TO ADMINISTER AND ENFORCE THIS CODE.

L. SECTION 302.4 ON PAGE ((9)) 11 IS DELETED AND A NEW SECTION 302.4 IS SUBSTITUTED, REVISED TO READ AS FOLLOWS:

302.4 WEEDS. ALL PREMISES AND EXTERIOR PROPERTY SHALL BE MAINTAINED FREE FROM WEEDS OR PLANT GROWTH IN EXCESS OF EIGHT (8) INCHES IN HEIGHT. ALL NOXIOUS WEEDS SHALL BE PROHIBITED. WEEDS SHALL BE DEFINED AS ALL GRASSES, ANNUAL PLANTS AND VEGETATION, OTHER THAN TREES OR SHRUBS, PROVIDED, HOWEVER, THIS TERM SHALL NOT INCLUDE CULTIVATED FLOWERS AND GARDENS.

UPON FAILURE OF THE OWNER OR AGENT HAVING CHARGE OF A PROPERTY TO CUT AND DESTROY WEEDS OR PLANT GROWTH PROHIBITED BY THIS SECTION AFTER SERVICE OF A NOTICE OF VIOLATION, THEY SHALL BE SUBJECT TO SECTIONS 106.3 AND 106.4. NOTWITHSTANDING SECTIONS 106.3 AND 106.4, UPON AN OWNER'S OR AGENT'S FAILURE TO COMPLY WITH THE NOTICE OF VIOLATION, AND PROVIDED THAT THE NOTICE OF

VIOLATION ADVISES THE OWNER OR AGENT OF THE REMEDIES AVAILABLE TO THE CITY UNDER THIS PARAGRAPH, ANY DULY AUTHORIZED EMPLOYEE OR CONTRACTOR OF THE CITY MAY ENTER UPON THE PROPERTY IN VIOLATION AND CUT, DESTROY AND REMOVE THE UNLAWFUL WEEDS AND PLANT GROWTH GROWING THEREON, AND THE COSTS OF SUCH WORK AND REMOVAL SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNER, SHALL BE A LIEN ON THE REAL PROPERTY, AND MAY BE COLLECTED AND HAVE THE LIEN ENFORCED IN THE SAME MANNER, AND HAVE THE SAME RIGHTS, PRIORITY RIGHTS, INTEREST AND PENALTIES AS CITY REAL PROPERTY TAXES.

SECTION 2. AND BE IT FURTHER ORDAINED BY THE SEAT PLEASANT CITY COUNCIL that the Recitals to this Ordinance are incorporated herein and deemed a substantive part of this Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED BY THE SEAT PLEASANT CITY COUNCIL that all other ordinances or parts of ordinances or provisions of the Code of the City of Seat Pleasant (1994 Edition, as amended) in conflict with the provisions of this Ordinance or the property maintenance code adopted by this Ordinance are hereby repealed to the extent of such inconsistency.

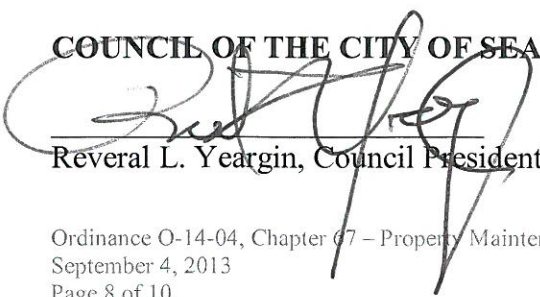
SECTION 4. AND BE IT FURTHER ORDAINED BY THE SEAT PLEASANT CITY COUNCIL that the title of this Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

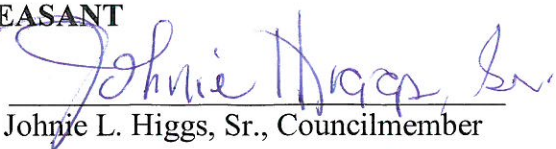
SECTION 5. AND BE IT FURTHER ORDAINED BY THE SEAT PLEASANT CITY COUNCIL that, if any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance, it being the intent of the City Council that this Ordinance shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase or portion hereof.

SECTION 6. AND BE IT FURTHER ORDAINED BY THE SEAT PLEASANT CITY COUNCIL that the City Clerk shall certify to the adoption of this ordinance, and cause the same or, to the extent permitted by the Charter, a fair summary of the same, to be published as required by law, and that this Ordinance shall become effective at the expiration of twenty (20) days following approval by the Mayor or passage by the City Council over the Mayor's veto.


APPROVED:


COUNCIL OF THE CITY OF SEAT PLEASANT

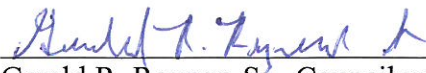

Reveral L. Yeargin, Council President



Johnie L. Higgs, Sr., Councilmember


Elenora Simms, Councilmember



Aretha A. Stephenson, Councilmember


Kelly Porter, Councilmember

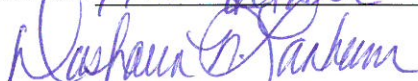

Gerald R. Raynor, Sr., Councilmember


Eugene F. Kennedy, Councilmember

Attest:


Dashaun N. Lanham
City Clerk

This Ordinance was presented to the Mayor for his approval or disapproval pursuant to Section C-313 of the Charter for Seat Pleasant this 14th October, 2013


Dashaun Lanham
City Clerk

In accordance with Section C-313 of the Charter for Seat Pleasant, I hereby **(APPROVE)** **(DISAPPROVE)** of this Ordinance this 14th October, 2013.


Eugene W. Grant, Mayor

EXPLANATION:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
((Double Parenthesis)) indicate matter deleted from existing law.
Underlining indicates amendments to bill.

~~Strike Out~~ indicates matter stricken from bill by amendment or deleted from the law by amendment.